

REMARKS

Claims 1-26 are pending in the present application and have been rejected. All previous rejections have been withdrawn.

Claim Rejection: 35 U.S.C. § 102(e)

The Office has rejected claims 1-9, 11, 13, 15-23, and 25-26 under 35 U.S.C. §102(e) as being anticipated by Schweikert (U.S. Published Application No. 2003/006218), for the reasons noted on pages 2-4 of the Office Action. Applicant respectfully traverses this rejection.¹

The Office argues that Schweikert anticipates these claims in light of the device depicted in Figures 1-12 and the accompanying description in the specification. Applicant disagrees that the Office has met its burden of substantiating anticipation under 35 U.S.C. §102 by showing that Schweikert teaches each and every limitation in the rejected claims.

The Office has failed this burden with respect to at least 3 claim limitations. Claims 1-17 contain a first limitation that the identification device contains a member or means for securing the identification device to a hose clamp (i.e., a protrusion) that, in certain claims, is different than the cross member. Claim 18 contains the second limitation of installing, removing, or interchanging an identification marker on the hose clamp without interfering with the hose. And the method claims 19-26 contain the third limitation of attaching an identification marker to a hose clamp.

The Office argues that Schweikert describes the first limitation in the engaging members 614 and 616 for securing the hose clamp. Applicant respectfully disagrees with the Office's interpretation of this reference. Schweikert discloses that information ring 600 is comprised of two separate pieces that releasably engage each other to form a ring with a circular opening therein. *See paragraph [0049]*. The two separate pieces contain a male connector 614 and a female connector 616 that are used to connect the two pieces into a single unit. *See paragraph [0050]*. In light of this disclosure, it is unlikely that the Office can substantiate that the engaging members 614 and 616 are used to securing the information ring to the hose clamp since the function of members 614 and 616 are to connect the two separate pieces of the information ring together.

As to the second limitation, the Office alleges that the information ring is adapted to be inserted and removed independently of the hose or conduit in an embodiment of Schweikert. But where is such a feature described in Schweikert? In making such an allegation, the Office did not specify where Schweikert describes such a feature. Compare such an allegation with the express disclosure of paragraph [0033] of Schweikert which describes that to remove the information ring 110, the conduit 160 must be severed by cutting so that the information ring 110 can be removed and a new information ring 110 provided.

As to the third limitation of attaching the identification marker to a hose clamp, the Office has also not substantiated that Schweikert describes such a limitation. Indeed, it would be hard

(footnote continued from previous page)

¹ Applicant notes that the Office did not "officially" reject claims 10, 12, 14, and 24 over Schweikert. In light of the comments in the Office Action, and the fact that the Office did not indicate that these claims were allowable, Applicant assumes that claims 10, 12, 14, and 24 were inherently included in the rejection over Schweikert.

for the Office to make such an argument in light of its previous recognition that Schweikert discloses in paragraph [0044] that the cross member 610 only "loosely" engages the curved portion 584 of the hose clamp.

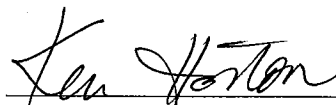
Thus, the Office has not shown that Schweikert anticipates each and every limitation in the rejected claims. Accordingly, Applicant requests withdrawal of this ground of rejection.

CONCLUSION

For the above reasons, Applicant respectfully requests withdrawal of the pending grounds of rejection and allowance of the pending claims.

If there is any fee due in connection with the filing of this Amendment, including a fee for any extension of time not accounted for above, please charge the fee to our Deposit Account No. 50-0843.

Respectfully Submitted,



Kenneth E. Horton
Reg. No. 39,481

KIRTON & McCONKIE
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84145
(801) 328-3600

February 1, 2007